



2AC/2154
ZFW

7246/58775

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Fumitake Yodo et al.
Serial No. : 09/462,789
Filed : January 12, 2000
For : RECORDING AND REPRODUCING APPARATUS, DATA
REPRODUCING METHOD, AND DATA RECORDING AND
REPRODUCING METHOD
Group A.U. : 2154
Examiner : Kenny S. Lin

I hereby certify that this paper is being deposited
this date with the U.S. Postal Service as first class
mail addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Jay H. Maioli
27,213

Jay H. Maioli
Date Reg. No.
September 23, 2005

September 23, 2005
1185 Avenue of the Americas
New York, NY 10036

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 C.F.R. §1.137(a)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The above-identified application has become abandoned for
failure to timely pay the required issue fee within the statutory
period of three months from the mailing date of the Notice of
Allowance.

A FAX copy of the Notice of Allowance was obtained courtesy of Examiner Kenny S. Lin on July 26, 2005 and is enclosed as Exhibit A. The Issue Fee Transmittal Form is enclosed as Exhibit B.

The undersigned respectfully petitions for the revival of this application because the Notice of Allowance was not received, as confirmed by a search of the file and docket records.

A copy of the docket record where the Notice of Allowance would have been entered had it been received and docketed is attached as Exhibit C.

Applicants submit herewith a Declaration of Jay H. Maioli In Support of Petition to Revive Unavoidably Abandoned Application under 37 C.F.R. §1.137(a), attached hereto as Exhibit D, a Declaration of Diane Larmon In Support of Petition to Revive Unavoidably Abandoned Application under 37 C.F.R. §1.137(a), attached hereto as Exhibit E, and a Declaration of Jeffrey Diaz In Support of Petition to Revive Unavoidably Abandoned Application under 37 C.F.R. §1.137(a), attached hereto as Exhibit F.

Enclosed herewith also are:

- _____ A check for \$500 for the petition fee due under 37 C.F.R. §1.17(1); and
- _____ a check for \$1400 for the issue fee.

The entire delay in filing the required reply from the statutory period of three months from the mailing date of the

7246/58775

Notice of Allowance until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(a) was unavoidable.

Respectfully submitted,

COOPER & DUNHAM LLP

A handwritten signature in black ink, appearing to read "Jay H. Maioli". The signature is written in a cursive, flowing style.

Jay H. Maioli
Reg. No. 27, 213

JHM/JBG



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

NOTICE OF ALLOWANCE AND FEE(S) DUE

7590 10/22/2004
JAY H MAJOLI
COOPER & DUNHAM
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

EXAMINER

LIN, KENNY S

ART UNIT

PAPER NUMBER

2154

DATE MAILED: 10/22/2004

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/462,789	01/12/2000	FUMITAKE YODO	7246/58775	5520

TITLE OF INVENTION: RECORDING/REPRODUCING APPARATUS, DATA REPRODUCING METHOD, AND DATA RECORDING/REPRODUCING METHOD

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1370	\$0	\$1370	01/24/2005

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.
- B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

- A. Pay TOTAL FEE(S) DUE shown above, or
- B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
 or **Fax** (571) 273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

09/28/2005 TBESHAH2 00000071 09462789

01 FC:1501

1400.00 OP



Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

Jay H. Maioli	(Depositor's name)
<i>Jay H. Maioli</i>	(Signature)
September 23, 2005	(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/462,789	January 12, 2000	Fumitake Yodo et al.	7246/58775	5520

TITLE OF INVENTION:

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	no	\$1400	\$0	\$1400	01/24/2005
EXAMINER	ART UNIT	CLASS-SUBCLASS			

Kenny S. Lin

2154

709-217000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1. Jay H. Maioli

2.

3.

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Sony Corporation

Tokyo, Japan

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☒ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:

☒ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):

☒ A check in the amount of the fee(s) is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☒ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number 03-3125 (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature

Jay H. Maioli

Date September 23, 2005

Typed or printed name Jay H. Maioli

Registration No. 27,213

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

9/23/2005

Patent Information Print

Docket No 36775
 Country United States
 Case Type REGULAR CASE TYPE
 Relation Type ORIGINAL OR PATENT CASE
 Filing Type NATIONAL CASE
 Filing No
 Attorney JAY H. MAIOLI
 Agent PEDRO FERNANDEZ
 Client\Division SUGIURA PATENT OFFICE
 Current Owner 7246
 Prev Own
 Status Filed
 First Filing Dt
 Sub Stat
 Sub Stat Dt
 Parent Country
 Parent Filing Dt
 Parent No
 Parent Grant Dt
 Total Claims
 Ind. Claims

Application # 09/462789
 Application Dt 12JA2000
 Patent No
 Grant Dt
 Publication #
 Publication Dt
 Assigned
 Expiration Dt
 Conv Type
 Tax Base Dt
 Next Tax Dt
 Associate
 Oper Grp
 Ag Ref No
 Verified N
 Customer D4PP
 Create Dt 26JA2000
 Update Dt 14MR2005
 Update Tm 1420
 Update User DSL
 Update Type

Actions

Action	CHECK DECL./REFUND(if needed	Comp Dt
Act Due Date	12MR2000	Resp Atty #1
Taken Dt		Resp Atty #2
DeadLn Dt		
Action	INFORMATION DISCLOSURE STATE	Comp Dt
Act Due Date	12AP2000	Resp Atty #1
Taken Dt		Resp Atty #2
DeadLn Dt		
Action	8mo FOREIGN FILING REMINDER	Comp Dt
Act Due Date	12SE2000	Resp Atty #1
Taken Dt		Resp Atty #2
DeadLn Dt		
Action	10mo FOREIGN FILING REMINDE	Comp Dt
Act Due Date	12NO2000	Resp Atty #1
Taken Dt		Resp Atty #2
DeadLn Dt		
Action	11mo FOREIGN FILING REMINDER	Comp Dt
Act Due Date	12DE2000	Resp Atty #1
Taken Dt		Resp Atty #2
DeadLn Dt		
Action	12mo FOREIGN FILING DEADLINE	Comp Dt
Act Due Date	12JA2001	Resp Atty #1
Taken Dt		Resp Atty #2
DeadLn Dt		
Action	1st OA - 3 MONTH RESPONSE DU	Comp Dt
Act Due Date	07FE2003	Resp Atty #1
Taken Dt	07FE2003	Resp Atty #2
DeadLn Dt		
Action	RESPONSE TO FINAL REJ. - 3rd	Comp Dt

Act Due Date	24JL2003	Resp Atty #1
Taken Dt	22JL2003	Resp Atty #2
DeadLn Dt		
Action	NOTICE OF APPEAL DUE	Comp Dt
Act Due Date	24OC2003	Resp Atty #1
Taken Dt	20AU2003	Resp Atty #2
DeadLn Dt		
Act Notes		
RCE FILED		
Action	PROPOSED ACTION	Comp Dt
Act Due Date	20JA2004	Resp Atty #1
Taken Dt		Resp Atty #2
DeadLn Dt		
Act Notes		
PER CORRES. DOCKETED 12/31/03		
Action	2nd OA - 3 MONTH RESPONSE DU	Comp Dt
Act Due Date	03FE2004	Resp Atty #1
Taken Dt	27JA2004	Resp Atty #2
DeadLn Dt		
Action	PROPOSED ACTION	Comp Dt
Act Due Date	31MY2004	Resp Atty #1
Taken Dt		Resp Atty #2
DeadLn Dt		
Act Notes		
PER LETTER PROCESSED 5/3/04		
Action	3 MONTH FINAL RESPONSE	Comp Dt
Act Due Date	23JE2004	Resp Atty #1
Taken Dt	02JE2004	Resp Atty #2
DeadLn Dt		
Action	NOTICE OF APPEAL DUE	Comp Dt
Act Due Date	23SE2004	Resp Atty #1
Taken Dt	21JL2004	Resp Atty #2
DeadLn Dt		
Act Notes		
RCE FILED		
Action	PETITION TO REVIVE DUE	Comp Dt
Act Due Date	04MY2005	Resp Atty #1
Taken Dt		Resp Atty #2
DeadLn Dt		
Action	FILING RECEIPT RECEIVED	Comp Dt
Act Due Date		Resp Atty #1
Taken Dt	28AP2000	Resp Atty #2
DeadLn Dt		
Action	NOTICE OF ABANDONMENT	Comp Dt
Act Due Date		Resp Atty #1
Taken Dt	04MR2005	Resp Atty #2
DeadLn Dt		
Act Notes		
PROCESSED 3/14/05		

Action	Response to 1st OA filed	Comp Dt
Act Due Date		Resp Atty #1
Taken Dt		Resp Atty #2
DeadLn Dt		

Action	Reponse 2nd OA filed	Comp Dt
Act Due Date		Resp Atty #1
Taken Dt	27JA2004	Resp Atty #2
DeadLn Dt		

Action	EXAMINER ISSUED ADV. ACTION	Comp Dt
Act Due Date		Resp Atty #1
Taken Dt	15JL2004	Resp Atty #2
DeadLn Dt		

Act Notes /
processed 7/20/04

Action	Final rejection filed	Comp Dt
Act Due Date		Resp Atty #1
Taken Dt	02JE2004	Resp Atty #2
DeadLn Dt		

Action	Final rejection filed	Comp Dt
Act Due Date		Resp Atty #1
Taken Dt	22JL2003	Resp Atty #2
DeadLn Dt		

****Inventors****

Inv Name	FUMITAKE YODO	Assigned
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Inv Name	JUNICHI ARAMAKI	Assigned
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****Title****

Title
RECORDING AND REPRODUCING APPARATUS, DATA REPRODUCING METHOD
AND DATA
RECORDING AND REPRODUCING METHOD



7246/58775

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Fumitake Yodo et al.
Serial No. : 09/462,789
Filed : January 12, 2000
For : RECORDING AND REPRODUCING APPARATUS, DATA
REPRODUCING METHOD, AND DATA RECORDING AND
REPRODUCING METHOD
Group A.U. : 2154
Examiner : Kenny S. Lin

Cooper & Dunham LLP
1185 Avenue of the Americas
New York, NY 10036

DECLARATION OF JAY H. MAIOLI IN SUPPORT OF PETITION TO REVIVE
UNAVOIDABLY ABANDONED APPLICATION UNDER 37 C.F.R. §1.137(a)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Jay H. Maioli, hereby declare as follows:

1. I am, and was at all relevant times referred to below, registered to practice before the United States Patent and Trademark Office ("PTO"), and the attorney of record for the above-identified application.
2. On March 26, 2004, we received a Final Office Action dated March 23, 2004 in the above-identified application (attached hereto as Exhibit G). In response to the Final

Office Action of March 23, 2004, we filed an Amendment After Final on June 2, 2004 (attached hereto as Exhibit H). On July 19, 2004, we received an Advisory Action dated July 15, 2004 (attached hereto as Exhibit I). In response to the Advisory Action, we filed a Request for Continued Examination (RCE) on July 21, 2004 (attached hereto as Exhibit J).

3. Not having received a Notice of Allowance or an Office Action in the above-identified Application, no further action was taken until March 14, 2005 when a Notice of Abandonment dated March 4, 2005 (attached hereto as Exhibit K) was received. Shortly after the receipt of the Notice of Abandonment, I instructed our Associate Pedro Fernandez to speak with the Examiner to determine the state of the Application.
4. On or shortly before July 26, 2005, Mr. Fernandez spoke with Examiner Kenny S. Lin of Art Unit 2154. Examiner Lin told Mr. Fernandez that according to PTO records, a Notice of Allowance was mailed on October 22, 2005. Examiner Lin agreed to fax us a copy of the Notice of Allowance.
5. It is my experience and belief that all mail addressed to me and received by our firm from the PTO is first processed, including stamping it with the date of receipt, by our docketing department on the day it is received by the firm or


on the next business day, before it is relayed to me via our intra-firm mail system.

6. The procedure that I have followed routinely for more than 20 years, including at all relevant times referred to herein, for handling mail I receive through our intra-firm mail system for the PTO is described below.
7. For each item of mail that I receive from the PTO, I routinely determine the following at the time I read the item:
(a) the mailing date of the item, if so indicated; (b) the date on which it was received by our firm as stamped on the item by our docketing department; (c) whether action, such as a response to be filed with the PTO, is required and (d) if such response is required, the due date for the response.
8. At or about the time I determine the due date for a response to be filed with the PTO, I write the following information in my monthly planner in the square corresponding to the due date: (a) our docket number for the application in connection with which the response is due on that date; and (b) identification of the attorney that is to prepare the response.
9. I have looked through my 2004 monthly planner and found no entries that indicate or suggest that I received the Notice of Allowance that was mailed by the PTO on October 22, 2004.

10. Therefore, it is my belief that I did not receive the Notice of Allowance that was mailed by the PTO on October 22, 2004.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: 09.23.05


Jay H. Maioli
Reg. No. 27, 213
1185 Avenue of the Americas
New York, NY 10036
(212) 278-0400



7246/58775

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Fumitake Yodo et al.
Serial No. : 09/462,789
Filed : January 12, 2000
For : RECORDING AND REPRODUCING APPARATUS, DATA
REPRODUCING METHOD, AND DATA RECORDING AND
REPRODUCING METHOD
Group A.U. : 2154
Examiner : Kenny S. Lin

Cooper & Dunham LLP
1185 Avenue of the Americas
New York, NY 10036

DECLARATION OF DIANE LARMON IN SUPPORT OF PETITION TO REVIVE
UNAVOIDABLY ABANDONED APPLICATION UNDER 37 C.F.R. §1.137(a)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Diane Larmon, hereby declare as follows:

1. I am currently, and have been since the start of my employment in October 2004 at the firm of Cooper & Dunham LLP, 1185 Avenue of the Americas, New York, New York 10036 ("Cooper & Dunham"), working in the docketing department at the firm and have since September 2005 been in charge of the docketing department.

2. Since the start of my employment at Cooper & Dunham, each person employed in our docketing department has been trained to follow, and to my knowledge follows, our procedures for processing mail received from the United States Patent and Trademark Office ("PTO"), as described below. Based on information and belief, these same procedures have been in place and followed by our docketing department for many years.
3. On information and belief, it has been the procedure of the docketing department at Cooper & Dunham to obtain all mail received from the PTO directly from the Cooper & Dunham mailroom as soon as it is received from the Post Office. Such mail is processed by our docketing department in the manner described below on the same day or, if the mail is received late, on the next business day.
4. For each item of mail received from the PTO, our docketing department processes the item as follows: (a) stamp the date of receipt of the item on the first page of the item; (b) identify the attorney responsible for handling prosecution of the application, and, if the attorney is not the addressee of the item of mail, write the initials of the attorney who is responsible at the top-right corner on the first page of the item; (c) make a photocopy of the first page, and in a few instances additional selected pages, of the item and place the

photocopy in the file system of our docketing department for storing such photocopy pages, which is organized with separate folders for each attorney and chronologically within each file; (d) determine the type of action of the item received and enter the action type in our computer docketing system; (e) determine the due date of any action that must be taken, such as payment of issue fee in response to a Notice of Allowance, and if any such actions are required, enter in our computer docketing system the due dates for the corresponding actions; and (f) place the item directly in the in-tray of the appropriately indicated attorney.

5. Attached hereto as Exhibit C is a copy of a computer printout of our docketing record on September 23, 2005, from our computer docketing system, corresponding to the above-identified patent application.

6. As shown in Exhibit C, a number of actions were docketed in connection with the subject application, including (a) RCE filed July 21, 2004 in response to the Advisory Action dated July 15, 2004 (b) a Notice of Abandonment dated March 4, 2005 received from the PTO.

7. As shown in Exhibit C, there is, however, no payment of issue fee docketed in our system that was due on January 22, 2005 in connection with the subject application.

8. Under my instructions and supervision, our docketing department file system (described in Paragraph 4 herein), including folders therein for all the attorneys of the firm, was searched for a Notice of Allowance dated October 22, 2004 that was mailed from the PTO in connection with the subject application.

9. The collection of photocopy pages of mail received from the PTO during the period of October 1 through November 1 that are in our docketing department file system totals to approximately one bankers box. The October 22 Notice of Allowance was not found in that approximately one box of pages.

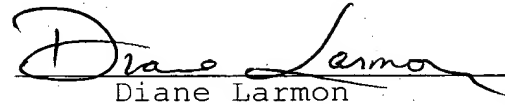
Based on the above, it is my belief that Cooper & Dunham did not receive a Notice of Allowance dated October 22, 2005 that was mailed from the PTO in connection with the subject application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such

7246/58775

willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: 9/23/05


Diane Larmon



7246/58775

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Fumitake Yodo et al.
Serial No. : 09/462,789
Filed : January 12, 2000
For : RECORDING AND REPRODUCING APPARATUS, DATA
REPRODUCING METHOD, AND DATA RECORDING AND
REPRODUCING METHOD
Group A.U. : 2154
Examiner : Kenny S. Lin

Cooper & Dunham LLP
1185 Avenue of the Americas
New York, NY 10036

DECLARATION OF JEFFREY DIAZ IN SUPPORT OF PETITION TO REVIVE
UNAVOIDABLY ABANDONED APPLICATION UNDER 37 C.F.R. §1.137(a)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Jeffrey Diaz, hereby declare as follows:

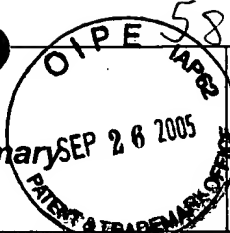
1. I am currently and have been continuously since November 22, 2004 in charge of the mailroom at Cooper & Dunham LLP, 1185 Avenue of the Americas, New York, New York 10036 ("Cooper & Dunham").
2. Each person employed in the mailroom at Cooper & Dunham during the period of time that I have been in charge of our mailroom has been instructed to hold all mail received so that

mail from the United States Patent and Trademark Office may be sorted out and picked up by the Cooper & Dunham docketing department.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: 9/23/05

Jeffrey Diaz
Jeffrey Diaz



JHM

Office Action Summary

Application No.

09/462,789 ✓

Applicant(s)

YODO ET AL.

Examiner

Kenny Lin

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

MAR 26 2004

- 1) ☒ Responsive to communication(s) filed on 30 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6-11 and 16-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6-11 and 16-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

3/23/2004

3mos: 6/23/2004

4mos: 7/23/2004

5mos: 8/23/2004

Re-appeal: 9/23/2004

SAC

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Art Unit: 2154

DETAILED ACTION

1. Claims 1, 6-11, 16-21 are presented for examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 7-8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morioka et al, U.S. Patent Number 6,324,334, in view of Raju et al, U.S. Patent Number 6,067,541.

4. Morioka et al and Raju et al were cited in the previous office actions.

5. As per claim 1, Morioka et al taught the invention substantially as claimed including a recording and reproducing apparatus (fig.1, col.2, lines 19-22), comprising:

- a. A recording medium having a storing portion for storing data programs and including a first management area for storing index data for managing said data programs (col.1, lines 8-13, 46-52, col.2, lines 19-22, col.8, lines 22-29, 45-49, col.18, lines 8-11); and a second management area for recording management

data for identifying said recording medium (col.1, lines 54-64, col.7, lines 61-66, col.12, lines 1-5, 13-20, 58-67);

- b. A recording and reproducing portion recording and reproducing data from said storing portion and for transmitting said management data (col.2, lines 19-226, 31-35, col.3, lines 9-14, col.18, line 65 to col.19, line 6, col.19, lines 15-36); and
- c. A signal generating portion for generating and transmitting a perfect index data based on said management data identifying said recording medium transmitted by said recording and reproducing portion so that said data programs are reproduceable by said recording and reproducing portion (col.1, lines 54-64, col.4, lines 53 to col.5, line 7, col.8, lines 45-66, col.11, lines 20-32, col.12, lines 2-5);

Wherein when said signal generating portion transmits said data to said recording and reproducing portion (col.15, lines 9-12, 19-26).

6. Morioka et al did not specifically teach that wherein said index data is an imperfect index data so that said data programs are unreproduceable from said storing portion; and that the recording and reproducing portion rewrites said imperfect index data with said perfect index data and is enabled to reproduce said stored data programs stored in said storing portion. However, it would have been obvious that the storing portion can store index data that are corrupted. Raju et al taught a method to generate perfect index data and rewrites over the corrupted index data (col.10, lines 64-67, col.11, lines 2-9). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Morioka et al and Raju et al

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because Raju et al's teaching of rewriting imperfect index data with perfect index data would correct the corrupted index data that cause the data programs to be unreproducible in Morioka et al's system, therefore enable the system to reproduce the stored data using the perfect index data.

7. As per claim 11, Morioka et al taught the invention substantially as claimed including a recording and reproducing apparatus (fig.1, col.2, lines 19-22), comprising:

- a. A recording and reproducing portion, including a recording medium having a storing portion for storing data programs and including a first management area for storing index data for managing said data programs (col.1, lines 8-13, 46-52, col.2, lines 19-22, col.8, lines 22-29, 45-49, col.18, lines 8-11), and a second management area for recording management data for identifying said recording medium (col.1, lines 54-64, col.7, lines 61-66, col.12, lines 1-5, 13-20, 58-67), and said recording and reproducing portion records and reproduces data to/from said storing portion and transmits said management data (col.2, lines 19-226, 31-35, col.3, lines 9-14, col.18, line 65 to col.19, line 6, col.19, lines 15-36); and
- b. A server unit (col.18, lines 1-7, 34-42) having a signal generating portion for generating and transmitting a perfect index data based on said management data identifying said recording medium transmitted by said recording and reproducing portion so that said data program are reproducible by said recording and reproducing portion (col.1, lines 54-64, col.4, lines 53 to col.5, line 7, col.8, lines 45-66, col.11, lines 20-32, col.12, lines 2-5),

Wherein when said signal generating portion transmits said data to said recording and reproducing portion (col.15, lines 9-12, 19-26).

8. Morioka et al did not specifically teach that wherein said index data in the management area is an imperfect index data so that said data programs are unreproducible from said storing portion; and that the recording and reproducing portion rewrites said imperfect index data with said perfect index data and is enabled to reproduce said store stored data programs stored in said storing portion. However, it would have been obvious that the storing portion can store index data that are corrupted. Raju et al taught a method to generate perfect index data and rewrites over the corrupted index data (col.10, lines 64-67, col.11, lines 2-9). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Morioka et al and Raju et al because Raju et al's teaching of rewriting imperfect index data with perfect index data would correct the corrupted index data that cause the data programs to be unreproducible in Morioka et al's system, therefore enable the system to reproduce the stored data using the perfect index data.

9. As per claim 7, Morioka et al and Raju et al taught the invention substantially as claimed in claim 1. Morioka et al further taught to include a terminal unit connected to the recording and reproducing portion and a server unit containing the signal generating portion that the server unit is being connected to the terminal unit through a communication network (col.18, lines 1-7, 34-42).

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10. As per claim 8, Morioka et al and Raju et al taught the invention substantially as claimed in claim 1. Morioka et al further taught to include a terminal unit containing the signal generating portion, the terminal unit being connected to the recording and reproducing portion and a server unit connected to the terminal unit through a communication network (col.18, lines 1-7, 34-42).

11. Claims 6, 9-10 and 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morioka et al, U.S. Patent Number 6,324,334, Raju et al, U.S. Patent Number 6,067,541, as applied to claims 1 and 11 above, and further in view of Russo, U.S. Patent Number 5,619,247.

12. Russo was cited in the previous office action.

13. As per claims 6 and 16, Morioka et al and Raju et al taught the invention substantially as claimed in claims 1 and 11. Raju et al further taught wherein when said recording and reproducing portion reproduces said data programs stored in said storing portion, said recording and reproducing portion supplies said perfect index data to said signal generating portion (col.10, lines 64-67, col.11, lines 2-9). Morioka et al and Raju et al did not specifically teach to include a charge processing portion for performing a charging process before said signal generating portion generates said perfect index data. Russo taught to have a charge processing portion for performing a charging process (col.3, lines 59-61, col.4, lines 47-53) wherein the recording and reproducing portion supplies a charging process signal to the charge processing portion to perform the charging process (col.10, lines 16-26). It would have been obvious to one of

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ordinary skill in the art at the time the invention was made to combine the teachings of Morioka et al, Raju et al and Russo because Russo's teaching of charging users on a pay-per-use basis enables Morioka et al and Raju et al's recording and reproducing apparatus to have a fair way of billing system that will only charge the user if they use the service.

14. Morioka et al, Raju et al and Russo did not specifically teach that after the charge processing portion has completed the charging process, the signal generating portion generates the perfect index data. However, Russo did teach that "the triggering of account debit may occur at different points" (col.10, lines 16-22). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Morioka et al, Raju et al and Russo and further allows signal generating portion to generate the permission signal after the charging process is performed in order to bill the users, ensuring the users has correctly input a billing method or sufficient credit amount, before the audio file is reproducing permission is granted.

15. As per claims 9 and 17, Morioka et al and Raju et al taught the invention substantially as claimed in claims 1 and 11. Morioka et al further taught to have the signal generating portion supplies data to the recording and reproducing portion (col.4, lines 57 to col.5, line 7, col.15, lines 9-12, 19-26). Morioka et al did not specifically teach that the data supplied is perfect index data. Raju et al taught to rewrite perfect index data (col.11, lines 2-9). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Morioka et al and Raju et al because Raju et al' teaching of replacing perfect index

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data with a corrupted index data help to correct the errors of corruption in Morioka et al's apparatus. Morioka et al and Raju et al did not specifically teach to include a charge processing portion wherein when the recording and reproducing portion reproduces the stored content data, the recording and reproducing portion supplies a charging process signal to the charge processing portion so that the charge processing portion performs the charging process. Russo taught to have a charge processing portion (col.3, lines 59-61, col.4, lines 47-53) wherein the recording and reproducing portion supplies a charging process signal to the charge processing portion to perform the charging process (col.10, lines 16-26). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Morioka et al, Raju et al and Russo because Russo's teaching of charging users on a pay-per-use basis enables Morioka et al and Raju et al's recording and reproducing apparatus to have a fair way of billing system that will only charge the user if they use the service.

16. Morioka et al, Raju et al and Russo did not specifically teach that after the charge processing portion has completed the charging process, the signal generating portion supplies the permission signal to the recording and reproducing portion. However, Russo did teach that "the triggering of account debit may occur at different points" (col.10, lines 16-22). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Morioka et al, Raju et al and Russo and further allows signal generating portion to supply the permission signal to the recording and reproducing portion after the charging process is performed in order to bill the users, ensuring the users has correctly input a billing method or sufficient credit amount, before the audio file is reproduced.

17. As per claims 10 and 18, Morioka et al, Raju et al and Russo taught the invention substantially as claimed in claims 9 and 17. Raju et al further taught that wherein the storing portion stores and said perfect index data along with said data programs, and said recording and reproducing portion rewrites said imperfect index data with said perfect index data received from said signal generating portion (col.10, lines 64-67, col.11, lines 2-9). Russo further taught that wherein the storing portion stores the charging process signal and said perfect index data along with the data programs (col.4, lines 47-53).

18. As per claim 19, Morioka et al, Raju et al and Russo taught the invention substantially as claimed in claim 17. Morioka et al further teach that recording and reproducing portion is connected to the server unit through a communication network (col.18, lines 1-7, 34-42). Morioka et al and Raju et al did not specifically teach that a charge processing portion connected to recording and reproducing portion. However, a charge processing portion connected to recording and reproducing portion is rejected for the same reason in claim 17 using Russo.

19. As per claim 20, Morioka et al, Raju et al and Russo taught the invention substantially as claimed in claim 19. Morioka et al, Raju et al and Russo did not specifically teach to include identification data for the terminal unit. However, it is well known in the art to use authenticating process to gain Network security and also to verify proper user account information using identification data. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide authenticating process to check identification

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data for the terminal unit to Morioka et al, Raju et al and Russo's reproducing apparatus to ensure Network security and verify proper billing information.

20. As per claim 21, Morioka et al, Raju et al and Russo taught the invention substantially as claimed in claim 20 including that charge processing portion connected to said server unit through said communication network (see claim 19 rejection) and charge processing portion performs charging process (see claim 17 rejection). Raju et al further taught rewrite imperfect index data with said perfect index data received from said signal generating portion (col.10, lines 64-67, col.11, lines 2-9).

Conclusion

21. Applicant's arguments filed 1/30/2004, with respect to claims 1, 6-11 and 16-21 have been considered but are moot in view of the new ground(s) of rejection. 71
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22. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenny Lin whose telephone number is (703)305-0438. The examiner can normally be reached on 8 AM to 5 PM Tuesday to Friday and every other Monday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (703)305-8498. Additionally, the fax numbers for Group 2100 are as follows:

Official Responses: (703) 872-9306

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-6121.

ksl
March 16, 2004



JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/462,789	01/12/2000	FUMITAKE YODO	7246/58775	5520

7590 03/23/2004

JAY H MAIOLI
COOPER & DUNHAM
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

EXAMINER

LIN, KENNY S

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 03/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



7246/58775

Response under 37
CFR 1.116
Group AU 2154
Expedited Procedure

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Fumitake YODO et al.
Serial No.: 09/462,789
Filed: January 12, 2000
For: RECORDING AND REPRODUCING APPARATUS, DATA
REPRODUCING METHOD, AND DATA RECORDING
AND REPRODUCING METHOD
Examiner : Kenny S. Lin
Group A.U.: 2154

I hereby certify that this paper is being deposited
this date with the U.S. Postal Service in first class
mail addressed to: Commissioner for Patents, P.O. Box
1450 Alexandria, VA 22313-1450

Jay H. Maioli
Reg. No. 27,213

Date
June 2, 2004

June 2, 2004
1185 Avenue of the Americas
New York, NY 10036
(212) 278-0400

AMENDMENT AFTER FINAL UNDER 37 CFR 1.116

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Official Action of March 23, 2004,
Applicants respectfully request that the above-identified
application be amended as follows.

AMENDMENTS TO THE CLAIMS

This listing of claims will replace all prior versions, and listings, of claims in the application:

Claim 1 (Currently Amended). A recording and reproducing apparatus, comprising:

a recording medium having a storing portion for storing data programs and including a first management area for storing index data for managing said data programs, wherein said index data is an imperfect index data so that said data programs are unreproducible from said storing portion, and a second management area for recording management data for identifying said recording medium, wherein said recording medium is a hybrid disc including a reproduction-only area and a rewritable area, said reproduction-only area having recorded thereon said data programs and said second management area, and said rewritable area having recorded thereon said imperfect index data;

a recording and reproducing portion for recording and reproducing data from said ~~storing portion~~ hybrid disc including reproducing and ~~for~~ transmitting said management data; and

a signal ^{generator} [generating portion] for generating and transmitting a perfect index data based on said management data identifying said recording medium transmitted by said recording and reproducing portion so that said data programs are reproducible by said recording and reproducing portion,

wherein when said signal generating portion transmits said perfect index data to said recording and reproducing portion,

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said recording and reproducing portion (^{replace}rewrites^{presented}said imperfect index data recorded on said rewritable area of said hybrid disc with said perfect index data and ~~is enabled to reproduce~~, thereby enabling the reproduction of said stored data programs stored in said ~~storing portion~~ reproduction-only area of said hybrid disc.

Claims 2-5 (Canceled).

Claim 6 (Previously Presented). The recording and reproducing apparatus set forth in claim 1, further comprising:

a charge processing portion for performing a charging process before said signal generating portion generates said perfect index data,

wherein when said recording and reproducing portion reproduces said data programs stored in said storing portion, said recording and reproducing portion supplies said perfect index data to said signal generating portion and said charge processing portion performs said charging process, and

when said charge processing portion has completed said charging process, said signal generating portion generates said perfect index data.

Claim 7 (Previously Presented). The recording and reproducing apparatus set forth in claim 1, further comprising:

a terminal unit connected to said recording and reproducing portion; and

a server unit containing said signal generating portion,

said server unit being connected to said terminal unit through a communication network.

Claim 8 (Previously Presented). The recording and reproducing apparatus as set forth in claim 1, further comprising:

a terminal unit containing said signal generating portion, said terminal unit being connected to said recording and reproducing portion; and

a server unit connected to said terminal unit through a communication network.

Claim 9 (Previously Presented). The recording and reproducing apparatus set forth in claim 1, further comprising:

a charge processing portion,

wherein when said recording and reproducing portion reproduces said data programs stored in said storing portion, said recording and reproducing portion supplies a charging process signal to said charge processing portion so that said charge processing portion performs a charging process, and

after said charge processing portion has completed said charging process, said signal generating portion supplies said perfect index data to said recording and reproducing portion.

Claim 10 (Previously Presented). The recording and reproducing apparatus set forth in claim 9,

wherein said storing portion stores said charging process

signal and said perfect index data along with said data programs, and

said recording and reproducing portion rewrites said imperfect index data with said perfect index data received from said signal generating portion.

Claim 11 (Currently Amended). A recording and reproducing apparatus, comprising:

a recording and reproducing portion including a recording medium having a storing portion for storing data programs and including a first management area for storing index data for managing said data programs, wherein said index data is an imperfect index data so that said data programs are unreproducible from said storing portion, and a second management area for recording management data for identifying said recording medium, wherein said recording medium is a hybrid disc including a reproduction-only area and a rewritable area, said reproduction-only area having recorded thereon said data programs and said second management area, and said rewritable area having recorded thereon said imperfect index data, and said recording and reproducing portion records and reproduces data to/from said ~~storing portion~~ hybrid disc including reproducing and transmits transmitting said management data; and

a server unit having a signal generating portion for generating and transmitting a perfect index data based on said management data identifying said recording medium transmitted by said recording and reproducing portion so that said data programs

are reproduceable by said recording and reproducing portion,

wherein when said signal generating portion transmits said perfect index data to said recording and reproducing portion, said recording and reproducing portion rewrites said imperfect index data recorded on said rewritable area of said hybrid disc with said perfect index data and is enabled to reproduce, thereby enabling the reproduction of said stored data programs stored in said ~~storing portion~~ reproduction-only area of said hybrid disc.

Claims 12-15 (Canceled).

Claim 16 (Previously Presented). The recording and reproducing apparatus set forth in claim 11, further comprising:

a charge processing portion for performing a charging process before said signal generating portion generates said perfect index data,

wherein when said recording and reproducing portion reproduces said data programs stored in said storing portion, said recording and reproducing portion supplies said perfect index data to said signal generating portion and said charge processing portion performs said charging process, and

when said charge processing portion has completed said charging process, said signal generating portion generates said perfect index data.

Claim 17 (Previously Presented). The recording and reproducing apparatus set forth in claim 11, further comprising:

a charge processing portion,

wherein when said recording and reproducing portion reproduces said data programs stored in said storing portion, said recording and reproducing portion supplies a charging process signal to said charge processing portion so that said charge processing portion performs a charging process, and

after said charge processing portion has completed said charging process, said signal generating portion supplies said perfect index data to said recording and reproducing portion.

Claim 18 (Previously Presented). The recording and reproducing apparatus set forth in claim 17,

wherein said storing portion stores said charging process signal and said perfect index data along with said data programs, and

said recording and reproducing portion rewrites said imperfect index data with said perfect index data received from said signal generating portion.

Claim 19 (Previously Presented). The recording and reproducing apparatus set forth in claim 17,

wherein said charge processing portion is connected to said recording and reproducing portion and to said server unit through a communication network.

Claim 20 (Previously Presented). The recording and reproducing apparatus set forth in claim 19,

wherein identification data is stored in said terminal unit, and when said recording and reproducing portion reproduces said data programs stored in said storing portion, said terminal unit supplies said identification data to said charge processing portion, and

when said charge processing portion has determined that said terminal unit is valid based upon said identification data received from said terminal unit, said charge processing portion starts said charging process.

Claim 21 (Previously Presented). The recording and reproducing apparatus set forth in claim 20,

wherein when said charge processing portion has determined that said terminal unit is valid based upon said identification data received from said terminal unit, said charge processing portion is connected to said server unit through said communication network so that said charge processing portion performs said charging process and rewrites said imperfect index data with said perfect index data received from said signal generating portion.

Claims 22-31 (Canceled).

REMARKS

Claims 1, 6-11, and 16-21 remain in the application and claims 1 and 11 have been amended hereby.

Reconsideration is respectfully requested of the rejection of claims 1, 7, 8, and 11 under 35 USC 103(a), as being unpatentable over Morioka et al. in view of Raju et al.

Features of the present invention are a hybrid disc (Fig. 1C and 51 in Fig. 6) including a reproduction-only area and a rewritable area, the reproduction-only area having recorded thereon data programs and a second management area for recording management data (e.g. a unique management number) for identifying the hybrid disc, and a rewritable area having recorded thereon an imperfect index (e.g. scrambled) so that the data programs are unreproducible from the hybrid disc.

Further features of the present invention are a signal generating portion (55 and 56 in Fig. 6) for generating and transmitting a perfect index data based on the received management data identifying the recording medium, wherein when the perfect index data is received, the imperfect index data is rewritten with the perfect index data so that the stored data programs can be reproduced.

Independent claims 1 and 11 have been amended to recite these features of the present invention described in page 28, line 5 to page 29, line 18 of the present application, for example.

It is respectfully submitted that the combination of Morioka et al. and Raju et al. fails to show or suggest the presently

claimed hybrid disc including a reproduction-only area and a rewritable area. Both Morioka et al. and Raju et al. are using hard drives.

Further, it is respectfully submitted that the combination of Morioka et al. in view of Raju et al. fails to show or suggest a recording medium having an imperfect index and management data identifying the recording medium stored therein, transmitting the management data to a signal generating portion for generating and transmitting a perfect index data based on the received management data, and rewriting the imperfect index data with the perfect index data so that the stored data programs can be reproduced.

The Office Action at paragraph 6 concedes that Morioka et al. fails to show or suggest anything related to an imperfect index being rewritten by a perfect index and cited Raju et al. as curing this deficiency.

It is respectfully submitted that, although Raju et al. is teaching how to restore an index that has become corrupted, Raju et al. fails to show or suggest generating/transmitting/rewriting an imperfect index with a perfect index generated based on management data identifying the recording medium such as a unique management number.

Accordingly, it is respectfully submitted that amended independent claims 1 and 11, and the claims depending therefrom, are patentably distinct over Morioka et al. in view of Raju et al.

Reconsideration is respectfully requested of the rejection

of claims 6, 9, 10, and 16-21 under 35 USC 103(a), as being unpatentable over Morioka et al., Raju et al., and Russo.

Claims 6, 9, and 10 depend from claim 1, and claims 16-21 depend from claim 11, respectively. The rejection of claims 1 and 11 over Morioka et al. and Raju et al. has been addressed above and, because there are no features in Russo that somehow could be combined with Morioka et al. and Raju et al. and result in the presently claimed invention, it is respectfully submitted that claims 6, 9, and 10 and 16-21 are patentably distinct over Morioka et al., Raju et al., and Russo.

Entry of this amendment is earnestly solicited, and it is respectfully submitted that the amendments made to the claims hereby raise no new issues requiring further consideration and/or search, because all of the features of this invention have clearly been considered by the examiner in the prosecution of this application and because the present amendments serve only to further define and emphasize the novel features of this invention.

Favorable reconsideration is earnestly solicited.

Respectfully submitted,
COOPER & DUNHAM LLP



Jay H. Maioli
Reg. No. 27,213

JHM/PCF:tb



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/462,789	01/12/2000	FUMITAKE YODO	7246/58775	5520

7590 07/15/2004
JAY H MAIOLI
COOPER & DUNHAM
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036



EXAMINER

LIN, KENNY S

ART UNIT PAPER NUMBER

2154

DATE MAILED: 07/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/462,789

Applicant(s)

YODO ET AL.

Examiner

Kenny Lin

Art Unit

2154

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Notice of Appeal: 9/23/04 MPL

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.Claim(s) objected to: none.Claim(s) rejected: 1,6-11 and 16-21.Claim(s) withdrawn from consideration: none.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: see continuation sheet

JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Fumitake Yodo et al.

Serial No.: 09/462,789

Filed : January 12, 2000

For : RECORDING AND REPRODUCING APPARATUS, DATA
REPRODUCING METHOD, AND DATA RECORDING AND
REPRODUCING METHOD

Group A.U.: 2154

Examiner : Kenny S. Lin



I hereby certify that this paper is being deposited
this date with the U.S. Postal Service in first class
mail addressed to: Commissioner for Patents, P.O. Box
1450 Alexandria, VA 22313-1450

Jay H. Maioli
Jay H. Maioli Date
Reg. No. 27,213 July 21, 2004

July 21, 2004
1185 Avenue of the Americas
New York, NY 10036
(212) 278-0400

REQUEST FOR CONTINUED EXAMINATION (RCE)

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the
above-identified application.

1. Submission required under 37 C.F.R. § 1.114
 - X Consider the Amendment (s) / Response under 37 C.F.R. § 1.116
previously mailed on June 4, 2004.
 - Enclosed is an Amendment / Response.
2. Fees
 - X A check in the amount of \$ 770.00 is enclosed to cover the RCE
fee required under 37 C.F.R. § 1.117 (e).

The Director is hereby authorized to charge any fees which may be required, or credit any
overpayment to Account No. 03-3125.

Respectfully submitted,

COOPER & DUNHAM LLP

Jay H. Maioli
Jay H. Maioli
Reg. No. 27,213



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/462,789	01/12/2000	FUMITAKE YODO	7246/58775	5520

7590

03/04/2005

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EXAMINER

LIN, KENNY S

ART UNIT

PAPER NUMBER

2154

DATE MAILED: 03/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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09462789

EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED:

NOTICE OF ABANDONMENT

This application is abandoned in view of:

- ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
- ☐ A reply (with Certificate of Mailing or Transmission of _____) was received on _____ which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
- ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
- ☐ A reply was received on _____, but it does not constitute a proper reply, or a *bona fide* attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in the last box below).
- ☐ No reply has been received.
- ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
- ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85) (or Notice of Publication Fee Due).
- ☐ The submitted fee of \$ _____ is insufficient. A balance of \$ _____ is due.
The issue fee by 37 CFR 1.18 is \$ _____. The publication fee, if required, by 37 CFR 1.18(d) is \$ _____.
- ☒ The issue fee and publication fee, if applicable, have not been received.
- ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTOL-37).
- ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
- ☐ No corrected drawings have been received.
- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☐ The reason(s) below: _____

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.